

REMARKS

Claims 1-68 are pending. Claims 1-68 were rejected in the Office Action dated June 10, 2009.

Claim Rejections Under 35 U.S.C. §102

Claims 1-68 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2003/0064784 to Wells et al. ("Wells").

The 1.131 antedating declaration: It is appreciated that the 1.131 declaration was deemed sufficient by the Examiner to overcome the Gauselmann reference.

The Examiner, however, affords the present application a priority date of December 2001 citing that date as the date of reduction to practice. In support of this position, the Examiner alleges a lack of evidence of diligence between conception and reduction to practice.

Therefore, the Examiner utilizes the Wells reference, with a filing date of September 28, 2001, to reject the present application.

However, this position is problematic for two reasons.

Firstly, it is respectfully asserted that the Examiner has inappropriately determined that construction to practice occurred as late as December 2001.

Simply expressed, the test of whether something is reduced to practice is whether one skilled in the art would understand that the invention would work as claimed. As the present invention is not in the unpredictable arts (chemistry etc.) one of skill in the art would have understood that the relevant portion of the claimed invention would work as claimed long before December 2001, the alleged reduction to practice date.

For example, one of skill in the art would have understood the relevant portion of the invention would work as claimed in November of 1999, in light of Exhibit A, excerpted from Mr. Griswold's notebook.

Secondly, proof of reasonable diligence does not require that the Applicant work constantly on his invention and drop all other work. Short gaps are permitted. Work on the invention everyday is not necessary. Mycogen Plant Science, Inc. v. Monsanto Co., 252 F. 3d 1306, 58 USPQ 2d 1891 (Fed. Cir. 2001); See Reed v. Tornquist, 436 F. 2d. 501, 168 USPQ 462 (CCPA 1971). The 1.131 declaration was not meant to provide an exhaustive chronicle of the

inventor's work on the invention.

Assuming, ad arguendo, that reduction to practice was in December, 2001, the requisite time period where diligence need be established in this situation is from one day before the priority date of Wells, September 27, 2001 until December 2001. Although the Examiner has not specified what facts he used to determine that reduction to practice occurred in December 2001, it is assumed for the moment that this time period is related to the Miller Dial quotation in December 2001. One of skill in the art would recognize, that for a quotation to be generated, that the information Miller Dial needed to develop the quotation must have been transmitted by Mr. Griswold some time in advance of the quotation being generated, perhaps in October or November 2001, or even earlier. Thus, even if the reduction to practice is said to be December 2001, one of skill in the art would understand that Mr. Griswold diligently worked toward that alleged reduction to practice in the timeframe from September 27 until December, at least by specifying to Miller Dial the necessary information for them to be able to produce the quotation.

When taken in conjunction with Mr. Griswold's testimony regarding diligence in paragraph 5 of his 1.131 affidavit, it is respectfully submitted that proof of reasonable diligence exists from September 27, 2001 until December 2001. Therefore, the Wells reference cannot properly be used to anticipate the claims of the present application.

Wells does not anticipate the present claims: Wells, even if available as a reference, does not teach each and every element of the independent claims. For example, Wells fails to teach the claim 1 limitations of:

selecting one of a plurality of player input displays, the one player input display corresponding to the one game related to the first game display;

causing the second display unit to display the selected one of the plurality of player input displays;

receiving player input data associated with the selected one of the plurality of player input displays and associated with the one game via the touch screen unit;

selecting an other of a plurality of player input displays;

after causing the second display unit to display the selected one of the plurality of player input displays, causing the second

display unit to display the selected other of the plurality of player input displays

The Examiner cites Wells paragraphs [0044-0047] for this anticipating disclosure. However, to the extent the examiner relies upon the disclosure of paragraph that “control panel 66 could be generated by the display unit 70” that would result in one display, not the claimed plurality and the interaction between the display units of the plurality recited in the above limitations. All of the limitations of the other of the independent claims are similarly not taught by Wells.

Thus, it is respectfully submitted that Wells cannot properly anticipate the pending claims and that they are in condition for allowance.

Information Disclosure Statement

Applicants note that the Examiner has considered all references submitted in Information Disclosure Statements dated March 26, 2009.

A Supplemental Information Disclosure Statement is being filed herewith. It is respectfully requested that this Supplemental Information Disclosure Statement be considered and the PTO Form 1449 be initialed and returned with the next Action.

CONCLUSION

Accordingly, it is believed that this application is now in condition for allowance and an early indication of its allowance is solicited. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
Weaver Austin Villeneuve & Sampson LLP
/Peter Mikhail/

Peter G. Mikhail
Reg. No. 46,930

P.O. Box 70250
Oakland, CA 94612-0250
510-663-1100